

Liz Jones

274984

Blan Holman
 Thursday, March 08, 2018 4:59 PM
 Butler, David; Carrie Schurg
 Benjamin Mustian; Bateman, Andrew; Pittman, Jenny; alex@shissiaslawfirm.com; Scott Elliott; Tim Rogers; Matthew Gissendanner; Liz Jones; Richard Whitt; K. Chad Burgess; Melchers, Joseph; Spearman, James
Subject: RE: Docket 2018-2-E - Extension of Time to File Responsive Testimony

Thank you David. We look forward to working with the parties to resolve this. In the meantime, we submit the following for the record:

Dear David:

We strongly support the request by South Carolina Solar Business Alliance, Inc. and Southern Current LLC for an extension of time to file pre-filed direct testimony in this complicated matter. As explained below, we disagree with several statements made by SCE&G in opposition.

First, contrary to the Company's statement, it was SCE&G's December 2017 request for a waiver to adjust its avoided costs that "inject[ed] additional issues in this proceeding." In its waiver request, SCE&G not only attempted to avoid the six-month PR-2 rate update obligation that the Commission placed on the Company (at the Company's) own request, it also announced that it was planning significant changes to its avoided cost methodology. The waiver request demanded a significant amount of attention to apprise the Commission how SCE&G's delay in filing updated rates could harm ratepayers. Instead of setting rates that would give QFs fair value for meeting the capacity need associated with the abandoned 1,340 MW of anticipated (but abandoned) nuclear generation, SCE&G proposed to delay filing an updated rate while at the same time floating a resource choice to resolve the capacity shortfall with its own preferred resource option. The result was that the Company deprived QFs of the chance to compete on capacity value, undermining PURPA's aim to promote a diversity of energy resources, drive competition and encourage clean energy investments by non-utility companies.

The Commission's decision on the Company's waiver request meant that SCE&G was required to include an updated six-month PR-2 rate in its pre-filed testimony in the fuel proceeding, and propose new rates based on a newly changed methodology. In issuing this Order, the Commission agreed with our clients' suggestion to bring some measure of transparency so that the Commission and ratepayers can understand how SCE&G's repeated methodology changes impact avoided cost rates. We would have preferred that SCE&G follow the Commission's initial instructions and updated its PR-2 rates in a timely manner in 2017 with a methodology that had already been fully vetted by the Commission. Its failure to do that is why the issue has been injected here.

Second, SCE&G's claim that parties have been on notice about all the issues in this docket but simply mismanaged their time is incorrect. Of course, our clients and Mr. Whitt's clients are well aware that avoided costs are set forth in "Rate Schedule PR-2" and are addressed in the annual fuel cost docket, but that does not

help us prepare pre-filed testimony where SCE&G *is proposing an entirely new avoided cost methodology*. Indeed, the details of the methodology were not made public until after business hours on Friday, February 23, 2018, when SCE&G filed 163 pages of direct testimony. Mr. Lynch's 64 page testimony addressing avoided costs contains several key figures and studies that required extensive review to prepare appropriate data requests. Among other things, the testimony includes: the first long-term planning forecast that SCE&G has published since V.C. Summer units 2 & 3 were abandoned; a new Reserve Margin study—the first update in five years to a study that informs avoided cost rates and resource planning and in which SCE&G attempts to justify a 21% winter reserve margin; and a new “black box” avoided cost methodology that cannot be vetted without significant effort to review model inputs and outputs. It was entirely reasonable for our clients to spend eight working days evaluating SCE&G's voluminous testimony and preparing a data request, and the Company's suggestion otherwise betrays a skewed understanding of fair and informed deliberation before the Commission.

Third, SCE&G's argument that prior dockets demonstrate that “[t]he issues of the fuel case, plus the PR-2 rate update and avoided costs” are not “too complicated for the existing time frame” is obviously incorrect. We and other parties in fuel cost proceedings have struggled mightily every year with the narrow window of time given to review SCE&G's testimony, file data requests, and prepare direct testimony. Needless to say, these tight time frames would be closer to workable if SCE&G did not change both the rates and the methodology with each filing. SCE&G's shifting overhauls serve neither judicial economy nor the parties, and are disruptive to PURPA markets. This unpredictability is why we continue to advocate for SCE&G to use a less-complicated, more transparent methodology for calculating avoided capacity costs.

Finally, the Company's response raises the question of which regulation governs responses to data requests in recurring dockets. We assume that Mr. Burgess refers to S.C. Code Ann. Regs. 103-833 (“Written Interrogatories and Request for Production of Documents and Things”) when he asserts that a 20-day response deadline applies. In our experience, however, SCE&G has not always adhered to the deadline imposed in this regulation to respond to data requests. We also believe that rigidly imposing this deadline in recurring dockets with very short timeframes—e.g., the annual Integrated Resource Planning dockets, which currently have 30-day comment deadlines—would make participation in such dockets near impossible for intervening parties. Applicants should be willing to work with parties to respond to data requests on an expedited basis when the hearing timeline is compressed, applicants should work with parties to extend deadlines where reasonable, or the Commission should reevaluate deadlines moving forward with regulation 103-833 in mind.

For all these reasons, the Coastal Conservation League and Southern Alliance for Clean Energy support Mr. Whitt's extension proposal. If the Commission is unwilling to extend the deadline, we would at the very least respectfully ask the Commission for leave to file supplemental testimony based on SCE&G's responses to data requests.

-Blair Holman,
Counsel for SACE and CCL

Blair Holman
Southern Environmental Law Center
463 King St. - Suite B
Charleston, SC 29403

p. 843 720 5270
www.southernenvironment.org

From: Butler, David [David.Butler@psc.sc.gov]
Sent: Thursday, March 08, 2018 4:54 PM
To: Carrie Schurg
Cc: Benjamin Mustian; Bateman, Andrew; Pittman, Jenny; alex@shissiaslawfirm.com; Scott Elliott; Blan Holman; Tim Rogers; Matthew Gissendanner; Liz Jones; Richard Whitt; K. Chad Burgess; Melchers, Joseph; Spearman, James
Subject: RE: Docket 2018-2-E - Extension of Time to File Responsive Testimony

In light of SCSBA's and Southern Current's modification of their extension request, it would be helpful if they could discuss the issue with SCE&G, and other parties to seek a possible resolution of the question. Please inform me tomorrow of any progress in this regard, if possible. If no resolution is reached, the Commission will rule on Wednesday. Thanks,
David Butler

From: Carrie Schurg [mailto:caschurg@AustinRogersPA.com]
Sent: Thursday, March 08, 2018 3:41 PM
To: Butler, David <David.Butler@psc.sc.gov>
Cc: Benjamin Mustian <bmustian@willoughbyhoefer.com>; Bateman, Andrew <abateman@regstaff.sc.gov>; Pittman, Jenny <jpittman@regstaff.sc.gov>; alex@shissiaslawfirm.com; Scott Elliott <sellott@elliottlaw.us>; Bholman@selcsc.org; Tim Rogers <tfrogers@AustinRogersPA.com>; Matthew Gissendanner <matthew.gissendanner@scana.com>; ejones@selcsc.org; Richard Whitt <rlwhitt@austinrogerspa.com>; K. Chad Burgess <chad.burgess@scana.com>
Subject: Docket 2018-2-E - Extension of Time to File Responsive Testimony

This email was dictated by Richard Whitt:

David:

This Reply addresses the Company's response to SCSBA's and Southern Current's request for modification of filing timelines in Docket 2018-2-E. SCSBA and Southern Current's reply follows, *seriatim*:

Procedural Posture of Case Relates to the Company's Waiver Request.

A prior Order of this Commission required the Company to update its PR-2 Rate during the month of December, 2017. The Company filed a Waiver Request of that filing on December 22, 2017.

The Company is well aware that its last December PR-2 Rate update filing (December, 2016), lead to intervention and the Company's ultimate abandonment of the Company's proposed December, 2016 PR-2 Rate update. Obviously, had the Company made its December, 2017 PR-2 Rate update filing, as required by a previous Order of this Commission, there would have been intervention and scrutiny of its PR-2 Rate. By the Company moving the PR-2 Rate update into its Fuel case, the Company avoided stand-alone intervention in the PR-2 Rate update filing, as occurred in the Company's December, 2016 PR-2 Rate update.

As is set forth below, the Company's inclusion of the PR-2 Rate update and the Company's changes to its avoided costs methodology, along with the normal fuel case issues, make the thirty day response time for intervenors unworkable, unfair and constitutes a lack of due process.

Facts Concerning Intervenors' Time to Respond.

- The Company's filing of Direct Testimony and Exhibits included the **Testimony and Exhibits of seven Witnesses running 172 pages in length.**

- The Company did not file and serve its Direct Testimony and Exhibits on Intervenors, which was due to be filed with this Commission on February 23, 2018, until after 5 p.m., on that Friday. [Therefore Intervenors were not in receipt of the Company's Direct Testimony and Exhibits until after the close of business on February 23, 2018. With the weekend days following the after business hours filing by the Company on Friday, as a practical matter, Intervenors did not have access to the 172 pages of Company's Direct Testimony and Exhibits until, sometime on Monday, February 26, 2018. The filing of the Company's Direct Testimony and Exhibits after the close of business on Friday, precluded Intervenors from having time to review the Company's Direct Testimony and Exhibits on Friday and over the weekend, thereby depriving the intervenors of three days of response time.
- With the Intervenors not having access to the Company's Direct Testimony and Exhibits, until Monday, February 26, 2018, Intervenors would have had to draft and serve their Discovery by the close of business on Friday,
- In four days' time after the Intervenors date of receipt of the Company's Direct Testimony and Exhibits, the Intervenors could not reasonably receive and review 172 pages of Direct Testimony and Exhibits and secure the services of an Expert Witness to review the lengthy Direct Testimony and Exhibits of the Company. My client's retained an Expert on March 7, 2018. The short period of time allowed Intervenors for review and response to (i) the Company's voluminous rate case filing (ii) the Company's "...changes to certain aspects of [the Company's] avoided cost calculation." and (iii) the Company's delayed PR-2 Rate update, is insufficient for due process and an Intervenors' reasonable response.

The Company's Reference to Suspending its PR-2 Rate.

The Company's reference to suspension of the PR-2 Rate would negatively affect solar development in South Carolina and is clearly a punitive suggestion because the Company wishes to have this Commission to decide (i) the Company's fuel case (ii) changes to the Company's avoided costs methodology and (iii) the company's required PR-2 Rate update from December, 2017, without adequate time for Intervenors review and response to the same.

Our Request for Relief.

In the spirit of cooperation, we modify our request for an extension of time to respond to the Company's Direct Testimony and Exhibits, of thirty days extension to the original response date of March 22, 2018, or in the alternative, we request leave to file supplemental Testimony, after we receive responses to our First Request for Production, which will be e-filed and served in the morning.

Regards,
Richard Whitt.

From: Richard Whitt

Sent: Thursday, March 08, 2018 7:32 AM

chad.burgess@scana.com
david.butler@psc.sc.gov david.butler@psc.sc.gov bmustian@willoughbyhoefer.com;
abateman@regstaff.sc.gov jpittman@regstaff.sc.gov; alex@shissiaslawfirm.com, selliott@elliottlaw.us,
Bholman@selcsc.org tfrogers@AustinRogersPA.com caschurg@AustinRogersPA.com>;
MATTHEW.GISSENDANNER@scana.com

Subject: Re: Docket 2018-2-E - Extension of Time to File Responsive Testimony

David:

We plan to respond by COB today.

Regards,
Richard Whitt.

Sent from my iPhone - Richard L. Whitt

On Mar 7, 2018, at 5:34 PM, BURGESS, KENNETH CHAD <chad.burgess@scana.com> wrote:

Dear David –

SCE&G is in receipt of the South Carolina Solar Business Alliance, Inc. and Southern Current LLC's (together "Solar Entities") request for a 90 day extension of time to submit its pre-filed direct testimony in the above-referenced docket. For the reasons below, this request should be denied.

As the Commission is aware, the Solar Entities have been past participants in prior fuel dockets, and as past participants they are fully aware of the issues to be addressed in a fuel proceeding. To claim that SCE&G's request for a waiver to adjust its avoided costs in December 2017, is the mechanism by which the Company is injecting "additional issues" in this proceeding is inaccurate. The Commission initiated Docket No. 2018-2-E on October 4, 2017, and in doing so, issued a Notice of Hearing and Prefile Testimony Deadlines ("Notice of Hearing"). By December 15, 2017, SCE&G had timely provided the Commission's Notice of Hearing to all its electric customers and had also caused the Notice of Hearing to be published in newspapers throughout SCE&G's electric service territory. The Notice of Hearing explicitly states that the avoided costs incurred by the Company will be addressed in the fuel proceeding, and the Solar Entities have known for years that SCE&G's avoided costs are set forth in its "Rate Schedule PR-2." And, they have likewise known that SCE&G updates its PR-2 Rate each year during the fuel proceeding. See Dockets No. 2016-2-E and 2017-2-E. Those prior dockets demonstrate that "[t]he issues of the fuel case, plus the PR-2 rate update and avoided costs" are not "too complicated for the existing time frame."

Contrary to the Solar Entities' belief otherwise, the inclusion of avoided costs in this docket is not the result of SCE&G requesting a waiver to update its avoided costs; it is South Carolina law and specifically, Act 236, which requires that avoided costs be addressed in SCE&G's fuel proceeding. The Solar Entities have known since June 2014, that avoided costs will be addressed in SCE&G's annual fuel proceeding. Setting the statute aside, on January 5, 2018, the South Carolina Solar Business Alliance, Inc. opposed SCE&G's December 2017 request for a waiver to update its avoided cost, and on January 24, 2018, the Commission directly addressed SCE&G's request, and the Solar Entities' opposition in Order No. 2018-55. In that order, the Commission ruled that "[c]urrent uncertainties with SCE&G make it appropriate to address [SCE&G's request for a waiver] in the context of the fuel case in April." Moreover, the Solar Entities ignore the fact that the Commission agreed with the suggestion of the Coastal Conservation League, who also opposed SCE&G's waiver request, that SCE&G be required to address its

proposed avoided costs in its prefiled testimony in the fuel proceeding. Ironically, the Coastal Conservation League, who strongly supports the Solar Entities' request for more time, appear to have forgotten that the Commission agreed with their suggestion.

With regard to the Solar Entities' claim that they need time to conduct discovery, this argument should be rejected. The Commission informed the public that any person who wishes to participate in this docket had until January 25, 2018, to file a Petition to Intervene. Southern Current, LLC filed its Petition to Intervene on January 22, 2018, and the South Carolina Business Alliance, Inc. filed its Petition to Intervene on January 23, 2018; they obviously had read and understood the Notice of Hearing. Moreover, the South Carolina Solar Business Alliance (whose membership includes Southern Current) knew by way of Commission Order No. 2018-55 issued on January 25, 2018, that SCE&G would include its updated avoided cost rate in its prefiled testimony. Since that time, the Solar Entities have made no attempt whatsoever to conduct any discovery in this docket. It is their absolute right to not be active in this docket, but to wait until March 7, 2018, and then claim that they need time for discovery when they have made no attempt to conduct discovery is untenable. The Coastal Conservation League's "strong[] support" for the Solar Entities' request appears to be nothing more than their attempt to cure their poor planning in the service of discovery. More specifically, the Coastal Conservation League waited until March 6, 2018, to serve discovery upon SCE&G. By regulation, SCE&G's responses are due March 26, 2018, which is 4 days after the other parties' direct testimony is due. That the Solar Entities and the Coastal Conservation League have either not yet filed discovery or waited until this late date to file discovery is no fault of SCE&G and is not a sufficient basis to support a request for an extension of time.

Lastly, an extension of 90 days would push this proceeding well beyond the date by which SCE&G seeks to have its fuel rates implemented. For years, SCE&G has implemented its new fuel rates beginning with its first billing cycle in May. Again, as past participants, the Solar Entities know that their request is disruptive, and they have not provided an adequate basis for their disruption. Based on the foregoing, SCE&G objects to the Solar Entities' request. But in the event that the Solar Entities' request is granted, then SCE&G respectfully requests that the Commission immediately suspend its existing PR-2 rate and instruct SCE&G to not execute any additional purchase power agreements with solar developers until the Commission issues an order setting SCE&G's avoided costs at an appropriate level.

If you have any questions, please advise.

Chad

From: Carrie Schurg []
 Sent: Wednesday, March 7, 2018 1:37 PM
 To: F. David Butler () < >
 Cc: BURGESS, KENNETH CHAD < >;

abateman@regstaff.sc.gov; jpittman@regstaff.sc.gov; alex@shissiaslawfirm.com; Richard Whitt
rlwhitt@AustinRogersPA.com selliott@elliottlaw.us Bholman@selcsc.org | Rogers
tfrogers@AustinRogersPA.com

Subject: Docket 2018-2-E - Extension of Time to File Responsive Testimony

***This is an EXTERNAL email from Carrie Schurg caschurg@austinrogerspa.com Please do not click on a link or open any attachments unless: confidential source.

This email was dictated by Richard Whitt:

David:

1. We represent the South Carolina Solar Business Alliance, Inc., and Southern Current LLC, in Docket 2018-2-E. I am addressing this request to you, because you have previously issued a Standing Hearing Officer Directive in this Docket.
2. As you know, SCE&G filed its Testimony on February 23, 2018, in Docket 2018-2-E, addressing not only the fuel case, but including the issues of PR-2 rate update and avoided costs. The inclusion of these two additional issues were as a result of SCE&G's request for a waiver, filed with this Commission on December 22, 2017.
3. Because these two additional, important issues were included in the Testimony, we are requesting that our March 22, 2018 Testimony deadline to be extended 90 days, or in the alternative, be held in abeyance until the parties have ample time to complete discovery requests and report back to you.
4. The issues of the fuel case, plus the PR-2 rate update and avoided costs, are too complicated for the existing time frame. Also, we need time for discovery requests to the Company, before we file Testimony.
5. All parties are copied hereon. Please advise, and this request is,

Respectfully Submitted,
 Richard Whitt,
 Timothy F. Rogers,
 As Counsel for South Carolina Solar Business Alliance, Inc., and
 Southern Current LLC.

